

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHARLES JOHN SCOVELL, II,

Petitioner,

vs.

TODD BAHENSKY,

Respondent.

4:25CV3001**MEMORANDUM AND ORDER**

This matter is before the Court on Petitioner's Motions for Leave to Proceed in Forma Pauperis ("IFP"). Filing Nos. 7 & 8. Habeas corpus cases attacking the legality of a person's confinement require the payment of a \$5.00 fee. 28 U.S.C. § 1914(a). The Court has reviewed the application to proceed IFP pursuant to 28 U.S.C. § 1915(a)(1)-(2). Petitioner's trust account information shows that Petitioner's account contained an average monthly balance of \$100 or more for the six-month period immediately preceding the filing of the petition. Filing No. 10. Thus, the Court concludes that Petitioner must be required to pay the \$5.00 filing fee because he has the financial ability to do so. *See* 28 U.S.C. § 1915(a). No further review of this case will take place until the fee is paid.

Additionally, on April 1, 2025, the Clerk of the Court sent a Letter to Petitioner at the Hall County Jail, which is the address listed in his habeas petition, *see* Filing No. 1 at 1, and it was returned to this Court as undeliverable. *See* Filing No. 11. Additionally, Petitioner's Inmate Trust Account Statement indicates that he was released from Hall County Jail on March 25, 2025. Petitioner has an obligation to keep the Court informed of his current address at all times. *See* NEGenR 1.3(e) and (g) (requiring pro se

parties to adhere to local rules and inform the Court of address changes within 30 days). This case cannot be prosecuted in this Court if Petitioner's whereabouts remain unknown.

Petitioner's state court records, available to this Court online, reveal that Petitioner was charged with being a fugitive from justice.¹ Petitioner's state court records also indicate that Petitioner was awaiting potential extradition to California. A search of the San Luis Obispo County Sheriff's Office online inmate records indicates Petitioner is currently in the custody of the San Luis Obispo County Jail. See <https://www.slosheriff.org/jail-information/whos-in-custody/> (last visited May 2, 2025). The Court will send a copy of this Memorandum and Order to Petitioner at both the address the Court has on file and at the San Luis Obispo County Jail.

IT IS THEREFORE ORDERED that:

1. Petitioner's requests to proceed IFP, Filing Nos. 7 & 8, are denied.
2. Petitioner must pay the \$5.00 filing fee within 30 days. Petitioner is warned that if the fee is not paid as required, the Court may dismiss this case without further notice.
3. No further review of this case will take place until the filing fee is paid.

¹ The Court takes judicial notice of the state county court records related to this case in *State v. Scovell*, No. CR24-3364, County Court of Hall County, Nebraska. See *Stutzka v. McCarville*, 420 F.3d 757, 760 n.2 (8th Cir. 2005) (court may take judicial notice of judicial opinions and public records); Federal Rule of Evidence 201 (providing for judicial notice of adjudicative facts). Nebraska's judicial records may be retrieved on-line through the JUSTICE site, <https://www.nebraska.gov/justice/case.cgi>.

4. Plaintiff must update his address within 30 days. Failure to do so will result in dismissal of this action without further notice to Plaintiff.

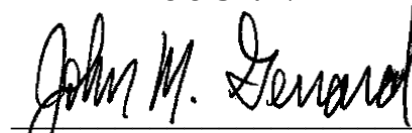
5. The Clerk of Court is directed to send a copy of this Order to Petitioner at his last known address and at the following address:

Inmate ID #458356
Scovell, Charles John II
880 Oklahoma Ave.
San Luis Obispo, CA 93405.

6. The Clerk of the Court is directed to set a pro se case management deadline in this case using the following text: **June 3, 2025**: deadline for Petitioner to pay \$5.00 filing fee and to update address.

Dated this 2nd day of May, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read "John M. Gerrard", written over a horizontal line.

John M. Gerrard
Senior United States District Judge